

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

SANDRA TORRES CARREON,

Plaintiff,

vs.

WILLIE KING and LOCKWOOD & SON
TRUCKING & CONSTRUCTION,

Defendants.

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CIVIL ACTION: 3:15-CV-2089-K

MOTION TO EXCLUDE TESTIMONY OF PLAINTIFF'S EXPERT, THOMAS TRUSS

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

COME NOW Lockwood & Son Trucking & Construction and Willie King, Defendants herein, and file this their Motion to Exclude Testimony of Plaintiff's Expert, Thomas Truss, and in support thereof would respectfully show the court as follows:

1. Thomas Truss, a so-called motor vehicle and heavy truck specialist, has been retained and designated by Plaintiff and has arrived at the following three opinions which are the subject of this motion to exclude:

- (a) Defendant Lockwood & Son Trucking & Construction ("Lockwood Trucking") was negligent in conducting the hiring process of Defendant Willie King ("King"); that is, Lockwood Trucking failed to exercise the ordinary care of a prudent motor carrier in hiring King;
- (b) Lockwood Trucking failed to exercise ordinary care in supervising King on the date of the accident; and
- (c) King failed to exercise ordinary care in the manner in which he operated his vehicle at the time of the accident.

2. The aforesaid opinions should be stricken and Mr. Truss should not be allowed to testify as to such opinions before the jury in this action as such opinions fail

to comply with the requirements of the Federal Rules of Evidence and, in particular, Federal Rules of Evidence 702 and 704, in that such opinions represent inadmissible legal opinions and conclusions and lack a reliable foundation by a qualified expert.

3. This motion is based on the attached brief and points of authorities, and the Appendix to the attached brief.

WHEREFORE, PREMISES CONSIDERED, Defendants pray that the Court set this motion for hearing and after hearing, the Court strike each of the opinions by Thomas Truss set forth in paragraph 1 hereof and order that Thomas Truss not be allowed to testify as to such opinions in connection with any testimony before the jury in this action, and for such other and further relief to which Defendants may show themselves justly entitled.

Respectfully submitted,

PENNINGTON HILL, LLP

By: /s/ H. Allen Pennington, Jr.

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WILLIE KING

CERTIFICATE OF CONFERENCE

I hereby certify that on March 16, 2016, I have conferred with opposing counsel, Mr. Aaron Spahr, on the merits of this motion. Mr. Spahr opposes the relief sought in this motion. Agreement could not be reached on the relief sought herein because of a good faith dispute thereon and Mr. Spahr's belief that the challenged opinions should be allowed.

/s/ H. Allen Pennington, Jr.
H. Allen Pennington, Jr.

CERTIFICATE OF SERVICE

On March 17, 2016, I hereby certify that I have served all counsel and/or *pro se* parties of record electronically or by another manner authorized by Federal Rule of Civil Procedure 5 (b)(2).

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